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UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

THOMAS J. ROMANO,)
Plaintiff,)
VS.) 3:16-cv-00204-RCJ-WGC
NEVADA DIVISION OF WATER RESOURCES,	ORDER)
Defendant.))

This case arises out of a water rights dispute. Pending before the Court are a Motion for Sanctions (ECF No. 15) and a Motion to Strike (ECF No. 16). The Court denies the motions.

I. FACTS AND PROCEDURAL HISTORY

The facts as alleged in the Complaint are difficult to follow. It seems clear that Plaintiff Thomas Romano believes Defendant Nevada Division of Water Resources has improperly refused to recognize his right to use 82.62 acre feet of water to benefit certain land. Plaintiff appears to allege that the prior owner quitclaimed the water rights to him in 2010, but Defendant is allegedly of the position that it cancelled the rights in 2004 such that the thing quitclaimed was of no value. In any case, Plaintiff sued Defendant *in pro se* in this Court. Defendant has answered. Plaintiff has asked the Court to strike Defendant's affirmative defenses and to sanction defendant for asserting them.

II. DISCUSSION

"The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). There is no such material in the Answer. Moreover, the motion to strike is itself improper and should be stricken, insofar as it also constitutes a "reply" to Defendant's Answer. Such a pleading is not allowed without a court order. *See* Fed. R. Civ. P. 7(a)(7).

"[A] motion [for sanctions] must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets." Fed. R. Civ. P. 11(c)(2). Plaintiff attests to having served the motion on May 24, 2016. (*See* Mot. 10, ECF No. 15). He filed the motion on May 25, 2016, without waiting 21 days for a potential withdrawal or correction. The motion is therefore improper.

CONCLUSION

IT IS HEREBY ORDERED that the Motion for Sanctions (ECF No. 15) and the Motion to Strike (ECF No. 16) are DENIED.

IT IS FURTHER ORDERED that the Reply (ECF No. 17) is STRICKEN.

IT IS SO ORDERED.

Dated this 29th day of June, 2016.

ROBERT C. JONI

United States District Judge